

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARHLON V. COOKE,	§
	§
Defendant Below-	§ No. 514, 2011
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0502016799
Plaintiff Below-	§
Appellee.	§

Submitted: October 12, 2011

Decided: October 21, 2011

Before **HOLLAND, BERGER, and JACOBS**, Justices.

**ORDER**

This 21<sup>st</sup> day of October 2011, it appears to the Court that:

(1) On September 22, 2011, the Court received appellant's notice of appeal from a Superior Court order, dated August 15, 2011, which denied his motion for modification of sentence. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before September 14, 2011.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be dismissed as untimely filed.<sup>1</sup> Appellant filed a response to the notice to show cause on October

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<sup>1</sup>Del. Supr. Ct. R. 6(a)(iii) (2011).

12, 2011. The response does not address appellant's untimely filing of his notice of appeal but instead argues the merits of his appeal.

(3) Time is a jurisdictional requirement.<sup>2</sup> A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.<sup>3</sup> An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.<sup>4</sup> Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.<sup>5</sup> There is nothing in the record to reflect that appellant's untimely filing is attributable to court personnel. Accordingly, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>2</sup> *Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

<sup>3</sup> Del. Supr. Ct. R. 10(a) (2011).

<sup>4</sup> *Carr v. State*, 554 A.2d at 779.

<sup>5</sup> *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).